



December 19, 2014

Mr. Curt Spalding
Regional Administrator
U.S. Environmental Protection Agency - Region 1
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Re: Cape Wind Associates, LLC ("Cape Wind") - EPA Permit Number OCS-R1-01

Dear Administrator Spalding:

Thank you for your letter dated November 5, 2014. Your letter stated that EPA is aware that New Bedford, Massachusetts "may be used" as the project staging area for Cape Wind's OCS project. Based on our review of numerous news publications and Cape Wind's own website, there is no doubt that Cape Wind will be using New Bedford, Massachusetts as its staging area and not Quonset Point, Rhode Island. See attached at Tab A.

The consequences of this change are significant. The permit issued to Cape Wind was predicated upon the use of Quonset Point, Rhode Island as the project staging location. As EPA has already acknowledged, "[t]his change in staging location likely affects some of the analyses and conclusions presented to EPA."¹ As you aware, in 2010, EPA temporarily stopped reviewing Cape Wind's permit application upon learning that Cape Wind was considering using New Bedford as its staging location. See attached at Tab B. In response to EPA's request to disclose the real staging location, Cape Wind would not confirm the abandonment of Quonset Point. See attached at Tab C. Based on the recent news, Cape Wind would be unable to provide the same denial today. EPA conducted necessary due diligence in 2010 based upon news reports, and highly reliable information now available through public sources confirms the intent of Cape Wind to change the staging area to New Bedford. Indeed, the Alliance has pending FOIA requests at both the Bureau of Ocean Energy Management (BOEM) and the City of New Bedford for the notice of project change. BOEM has confirmed that such a document exists and will respond by December 31. Tab D. New Bedford also has promised a response by December 24. Tab E. In consideration of this information, your November 5 response that Cape Wind "may" change its staging area is clearly wrong. Hopefully, EPA has fulfilled its Clean Air Act responsibilities by now and confirmed the project change.

¹ Letter from S. Perkins, EPA to D. Duffy, Cape Wind, October 29, 2010.

4 Barnstable Road, Hyannis, Massachusetts 02601

□ **508-775-9767** □ **Fax: 508-775-9725**

Mr. Spalding
December 19, 2014
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An air emissions permit cannot be considered valid once the data upon which the permit was issued is no longer reliable. And, neither EPA nor the public has had an opportunity to review and comment on the vessel traffic and vessel emissions that will result from the New Bedford staging location. Because Cape Wind has committed to change the staging location to New Bedford, EPA should revoke permit number OCS-R1-01 and initiate a new public review process under the Clean Air Act as well as further NEPA review.

Please feel free to contact me if you have any questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Audra Parker". The signature is fluid and cursive, with the first name "Audra" and last name "Parker" clearly distinguishable.

Audra Parker
President and CEO

Attachments

cc: Dr. Walter Cruikshank, Acting Director of Bureau of Ocean Energy Management
David Frantz, Loan Programs Office, U.S. Department of Energy

TAB A

You are currently viewing the printable version of this article, to return to the normal page, please [click here](#).

New Bedford to be Cape Wind staging area

By - Associated Press - Friday, September 12, 2014

NEW BEDFORD, Mass. (AP) — The developers of a proposed wind farm off the coast of Cape Cod have signed a lease agreement with the state to use New Bedford for staging and construction of the 130 turbine project.

Cape Wind is expected to officially announce the news at 11 a.m. Friday with Gov. Deval Patrick at the Massachusetts Clean Energy Center's Wind Technology Testing Center in Boston.

Patrick tells The Standard-Times (<http://bit.ly/1qrgBMv>) that "Cape Wind is going to be built out of New Bedford, not Rhode Island, that's the bottom line."

Cape Wind had previously signed lease options with both South Terminal, now formally called the Massachusetts Marine Commerce Terminal, and Rhode Island's Quonset Point.

The two-year lease is for \$4.5 million.

When built, it will be the nation's first offshore wind farm.

Information from: The (New Bedford, Mass.) Standard-Times, <http://www.southcoasttoday.com>

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By Jack Newsham

GLOBE CORRESPONDENT SEPTEMBER 13, 2014

The company behind the controversial wind energy project off Cape Cod has signed a two-year lease with the state for a terminal in New Bedford harbor that will act as the staging area for the offshore construction.

Under the agreement, Cape Wind will pay the state \$4.5 million to use the 28-acre site for two years, starting January 2015. It will use the facility called South Terminal to assemble workers, materials, and equipment, which will be ferried about 30 miles to Nantucket Sound, where more than 100 wind turbines will be installed.

Cape Wind estimated construction of the \$2.5 billion project, touted as the nation’s first offshore wind farm, will create between 600 and 1,000 jobs. Previously, Cape Wind has considered using port facilities in Rhode Island.

The terminal, which occupies 28 acres just inside New Bedford’s hurricane barrier, is itself still under construction but is expected to be completed in December. Despite its waterfront location, the terminal will be able to support loads of up to 4,000 pounds per square foot and a crane weighing nearly 3 million pounds that could lift cargo weighing more

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than 1.1 million pounds. Backers of the project said South Terminal could later be used for staging future offshore wind projects.

“We have positioned Massachusetts as a first-in-the-nation hub for a new offshore wind industry that will bring jobs and a clean source of Massachusetts-made energy for future generations,” Governor Deval Patrick said in a statement.

The New Bedford harbor has undergone renovations in preparation for the offshore wind project. Dredging, engineering, construction, and environmental cleanup efforts associated with the project are expected to cost \$100 million, paid by the state.

The Cape Wind project has been fiercely opposed by Cape and Island residents who say the massive wind towers will destroy views, do other environmental damage, and increase electricity costs for Massachusetts residents. Opponents have filed several legal challenges over the years — some are still pending — but Cape Wind has largely prevailed and moved forward.

Jack Newsham can be reached at jack.newsham@globe.com. Follow him on Twitter [@TheNewsHam](#).

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New Bedford to be Cape Wind staging area

Article | Sun, 09/14/2014 - 9:04am

NEW BEDFORD, Mass. (AP) — The developers of a proposed wind farm off the coast of Cape Cod have signed a lease agreement with the state to use New Bedford for staging and construction of the 130-turbine project, officials announced Friday.

[Click here to read this AP article](#)

Posted In:

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[When - status/timeline](#)

Administration

-

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TAB B



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

OCT 29 2010

Mr. Dennis Duffy,
Vice President Regulatory Affairs,
Cape Wind Associates, LLC
75 Arlington St., Suite 704
Boston, MA 02116

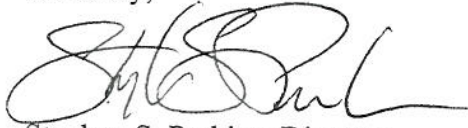
Dear Mr. Duffy,

I read with interest Governor Patrick's announcement that Cape Wind Associates will use the proposed Marine Terminal in New Bedford to stage construction of the Cape Wind Energy Project. As you know, Cape Wind's application to EPA for an Outer Continental Shelf Air Permit under Section 328 of the Clean Air Act was predicated (at least in part) on staging the project from Quonset Point in Rhode Island. This change in staging location likely affects some of the analyses and conclusions presented to EPA in the air permit application, and/or presented to other agencies for the purpose of other federal statutory requirements with which EPA must comply in issuing an air permit.

I am requesting that Cape Wind Associates confirm that it has revised its project plan and provide EPA with any and all appropriate amendments to the air permit application as soon as possible, including a statement of Cape Wind's views regarding which, if any, of the reviews conducted by other federal agencies need to be revised before EPA could issue a final Outer Continental Shelf Air Permit. While EPA will continue to prepare responses to public comments on the proposed permit on matters that would be clearly unaffected by the location of the project's staging area, I have directed my staff to put the remainder of the work on this permit application on hold until we receive the information requested above from Cape Wind.

Ida McDonnell, Chief of our Air Permits Unit, has already reached out to Rachel Pachter to convey this message and she will be available to answer any questions your staff may have. Ida can be reached at 617-918-1653.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen S. Perkins', written in a cursive style.

Stephen S. Perkins, Director
Office of Ecosystem Protection

cc: Poojan Tripathi, BOEMRE
Karen Adams, ACOE
Thomas Chapman, USFWS
Julie Crocker, NMFS
Ken Kimmell, Mass EOEEA
Marc Wolman, MassDEP

TAB C

75 Arlington Street
Suite 704
Boston, MA 02116
617-904-3100
Fax: 617-904-3109
www.capewind.org

rec'd 11/19/10 SSP

November 17, 2010

Stephen S. Perkins
Director
Office of Ecosystem Protection
U.S. Environmental Protection Agency
Region 1
5 Post Office Square, Suite 100
Boston, MA 02109

Dear Mr. Perkins,

I am writing in response to your letter of October 29, 2010, in which you state that you have directed EPA staff to put "on hold" the review of our pending air permit application. For the reasons set forth below, we respectfully request that you rescind that directive and allow your staff to complete its review of the application. In response to your request, I also wish to confirm that Cape Wind has not revised its project plan, nor has it altered any portion of the air permit application as filed with your office. There has thus been no change to Cape Wind's proposal that would require EPA or any other agency to modify its review of the project.

Please be further advised that the Commonwealth's referenced proposal to develop a Multi-Purpose Marine Terminal at New Bedford remains subject to several contingencies beyond our control, and it remains unclear as to whether such a facility would be completed and available on a timeline consistent with our project construction requirements. In the event that such a facility were to become both completed and available on a timely basis and CWA proposes to use it for all or a substantial part of its staging requirements, Cape Wind would alter its project plans and make the appropriate regulatory filings at that time. As of this time, however, CWA has made no such change to its project or to its pending air application.

We also note that if CWA were to amend its project plans to reflect utilization of a staging area in New Bedford, it is unlikely that such a modification would have a significant impact upon an air permit issued in response to the currently pending application. We note in this regard that (i) Section 55.2 of the EPA's OCS Air Regulations provides that "emissions from vessels servicing or associated with an OCS source shall be considered direct emissions while at the source and while enroute to or from the source when within 25 miles of the source...." and (ii) it is unlikely that any such project modification would indicate a significant alteration to

Stephen S. Perkins
November 17, 2010
Page 2

vessel activity within such jurisdictional area. In any event, the particulars of any such potential or future modification remain speculative at this time.

Please feel free to call if you should have any questions and we respectfully request that you allow your staff to promptly complete the review of the pending application.

Sincerely,



Dennis J. Duffy
VP – Regulatory Affairs

cc: Ira Leighton
Deputy Regional Administrator

TAB D



United States Department of the Interior

BUREAU OF OCEAN ENERGY MANAGEMENT

381 Elden St, HM-3127
Herndon, VA 20170

Telephone (703) 787-1315
Facsimile (703) 787-1209

November 4, 2014

Via Electronic Mail sandyt@saveoursound.org

Sandy Taylor
Executive Assistant
Alliance to Protect Nantucket Sound
4 Barnstable Road
Hyannis, MA 02601

RE: Freedom of Information Act (FOIA) Request No. BOEM-2014-00100

Dear Ms. Taylor,

This letter is in response to your FOIA request of September 22, 2014 to the Bureau of Ocean Energy Management (BOEM) for a copy of the modification to Cape Wind's Construction and Operations Plan seeking BOEM's authorization to use the Massachusetts Marine Commerce Terminal in New Bedford as a staging area (BOEM-2014-00100).

The search for records in response to your FOIA request has been completed. However, our review of the requested material is still pending.

Unusual and Exceptional Circumstances

In our correspondence to you of October 1 and October 22, 2014, we advised you that the Bureau was taking a 10-workday extension under 43 CFR § 2.19 and would respond to your request by November 4, 2014, or notify you of any delay.

At this time, we would like to notify you that we are experiencing a delay in the processing of your request. In addition to the unusual circumstances (as defined in 5 USC § 552(a)(6)(B)(i)) which prompted the Bureau to take the 10-day extension, we are experiencing a backlog of requests and must respond to your request in the order it was received. Currently, your request is number seven in our "Complex" processing track (refer to 43 CFR § 2.15(c)(3)).

We are doing everything we can to process your request and the others ahead of it in the processing queue in a timely manner. However, due to unforeseen circumstances, including the loss of key personnel earlier this year, and a significant increase in new requests received during the last six months (as compared to the same period in prior years), we are unable to respond to your request at this time.

Our revised estimated response date for responding to your FOIA request is December 31, 2014. Of course, we will respond earlier if it becomes possible to do so.

Appeal Rights and Mediation Services

Although we hope that you will wait so that we can complete our review and consultation process, you may file an appeal with the Department's FOIA/Privacy Act (PA) Appeals Officer regarding this delay.

If you choose to appeal this delay, you may do so anytime between now and the date we make our final determination on your FOIA request. Appeals arriving or delivered after 5 pm Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/PA Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must also include with your appeal copies of all correspondence between you and BOEM concerning your FOIA request, including your original FOIA request and BOEM's response. Failure to include with your appeal all correspondence between you and BOEM will result in the Department's rejection of your appeal, unless the FOIA/PA Appeals Officer determines that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/PA Appeals Officer needs additional information or clarification of your appeal. Following are the contact details for the FOIA/PA Appeals Office:

Department of the Interior
Office of the Solicitor
1849 C Street, NW; MS-6556 MIB
Washington, DC 20240
Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

For more information on FOIA Administrative Appeals, you may review the Department's FOIA regulations at *43 CFR, Part 2, Subpart H*.

Also, the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001

Email: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: (202) 741-5770
Fax: (202) 741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

Conclusion

We sincerely regret the delay in responding to your request, and appreciate your consideration in this matter. If you have any questions, feel free to contact us by email at boemfoia@boem.gov, by phone at (703)787-1315, or by postal mail at: FOIA Office; Bureau of Ocean Energy Management; Atrium Building, MS: HM-3127; 381 Elden Street; Herndon, VA 20170.

Sincerely,

X 

Rosemary Melendy
FOIA/PA Officer/FOIA Public Liaison
Bureau of Ocean Energy Management

TAB E

SAVE OUR SOUND

alliance to protect nantucket sound

Note: 12/19/14 City Solicitor called to inform the Alliance that we should received the documents by 12/24/14.

September 15, 2014

City of New Bedford
Jonathan F. Mitchell, Mayor
New Bedford City Hall
133 William Street
New Bedford, MA 02740

Re: Freedom of Information Act Request

Dear Mayor Mitchell:


Pursuant to the Massachusetts Public Records Law, G.L. c. 66, § 10, et seq., I am writing on behalf of the Alliance to Protect Nantucket Sound ("the Alliance") to request all documents, including any communications, correspondence, emails, telephone messages, message logs, calendar entries, appointments, or spreadsheets, and similar communications from February 13, 2013 to the date of your office's final response to this public records request regarding the use of New Bedford by the Cape Wind project.

Pursuant to G. L. c. 66, § 10(b), a response to this request is required within ten days. In the event that any of the requested documents cannot be disclosed in their entirety, the Alliance requests that you release any material that can be reasonably segregated. Should any documents or portions of documents be withheld, the Alliance further requests that the Office of the Governor state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof.

The Alliance agrees to pay up to \$250.00 for processing this public records request.

Please do not hesitate to contact the undersigned at (508) 775-9767 should you have any questions.

Sincerely,

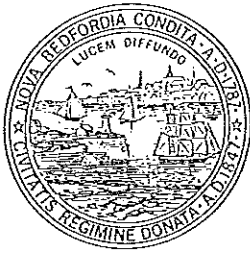


Audra Parker
President & CEO

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

www.saveoursound.org

a 501 (c)(3) tax-exempt organization



City of New Bedford
OFFICE OF THE CITY SOLICITOR

MIKAELA A. McDERMOTT
City Solicitor

JANE MEDEIROS FRIEDMAN
First Assistant City Solicitor

SHANNON C. SHREVE
Counsel II

September 29, 2014

ERIC JAIKES
JOHN A. MARKEY, JR.
KREG R. ESPINOLA
Assistant City Solicitors

BLAIR S. BAILEY
ERIC C. COHEN
JOHN E. FLOR
THOMAS J. MATHIEU
ELIZABETH TREADUP PIO
Special Legal Counsel

Audra Parker
President & CEO
Save Our Sound
4 Barnstable Road
Hyannis, MA 02601

Re: Request for Information

Dear Ms. Parker:

I am writing in response to your request to Mayor Jon Mitchell for records pursuant to the provisions of M.G.L. c. 66, section 10 (the "Public Records Law"). This office estimates that it would cost \$653.28 for the City to search its records to determine whether any responsive documents exist. This \$653.28 estimate represents 24 hours of work at the rate of \$27.22 per hour. Since we do not yet know how many documents, if any, are responsive to your request, we cannot provide an estimate for the charge of copying the documents at this time.

The City requires payment of the estimated fee before commencing the work on a public records request. If you wish for the City to proceed with researching your request, please send a check or money order to my attention made payable to the City of New Bedford in the amount of \$653.28.

Very truly yours,

Mikaela A. McDermott
City Solicitor

MAM/lp

SAVE OUR SOUND

alliance to protect nantucket sound

October 3, 2014

City of New Bedford
Mikaela A. McDermott
City Solicitor
133 William Street
New Bedford, MA 02740

Re: Freedom of Information Act Request

Dear Solicitor McDermott:

Thank you for your letter regarding our FOIA request dated September 29, 2014.

We agree to pay the estimate for the City to search its records relating to our request. Please find our check dated October 3, 2014 in the amount of \$653.28 included with this letter.

Do not hesitate to contact the undersigned at (508) 775-9767 should you have any questions.

Sincerely,



Audra Parker
President & CEO

4 Barnstable Road, Hyannis, Massachusetts 02601
□ 508-775-9767 □ Fax: 508-775-9725

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\$653.28 FOIA Request

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